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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/785,024

02/25/2004

Jerry L. Blevins

A-7014.CIP

9026

7590

09/21/2006

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EXAMINER

MAYO, TARA L

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/785,024

Applicant(s)

BLEVINS, JERRY L.

Examiner

Tara L. Mayo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Introduction***

1. In view of the Appeal Brief filed on 08 June 2006, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

### ***Claim Objections***

2. Claims 1 and 9 are objected to because of the following informalities: minor grammatical errors, and lack of antecedent basis.

In claim 1 on lines 19 and 21, delete "base" and insert therefor --bases are--.

In claim 9 on line 6, delete "patent" and insert therefor --patient--.

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Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 through 5 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Blevins (U.S. Patent Publication No. 2001/0044965 A1).

Blevins '965, as best seen in Figure 30 through 32, shows a patient lifter comprising:  
with regard to claim 1,

a patient support (41) having a top surface, a bottom surface, a first side edge, a second side edge, a top edge and a bottom edge, the distance between the top and bottom edges defining a first width;

a support frame attached to said first side edge and comprising at least one post (1031, 1032) and a cross member (1025); and

a pair of bases (1022, 10241) extending outwardly from said support frame and engaging the ground (via the wheels), said pair of bases comprising a first base having a first end attached to said support frame and a second end spaced from said support frame and a second base having a first end attached to said support base and a second end spaced from said support frame;

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wherein said pair of bases have a first position with said first and second bases extending from said support frame toward said second side edge, said second ends of said first and second bases are spaced from each other by a second width smaller than said first width and a second position wherein said second ends of said first and second bases are spaced from each other by a third width greater than said first width;

with regard to claim 2,

wherein said support frame comprises a pair of posts, said cross member extending between said pair of posts;

with regard to claim 3,

wherein said first and second bases are parallel in the first position;

with regard to claim 4,

wherein the first and second bases are pivotally connected to said support frame (para. 0068);

with regard to claim 5,

wherein said first and second bases are rigidly connected to said support frame (via the hinge pin per para. 0068); and

with regard to claim 12,

the patient support having a first position when said pair of bases are in said first position and a second position when said pair of bases are in said second position, said patient support second position being lower than said patient support first position.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6 through 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blevins (U.S. Patent Publication No. 2001/0044965 A1) in view of Pratt (U.S. Patent No. 2,817,855).

Blevins '965 teaches all of the features of the claimed invention with the exceptions of a railing and two L-shaped arms.

Pratt '855, as best seen in Figures 1 through 6, shows a patient bed attachment comprising a railing (the combination of elements 9, 10 and 11) and two L-shaped arms (the combination of elements 14 and 15), wherein each L-shaped arm has a first end connected to said railing and a second end pivotally connected to the bottom surface of a patient support surface (via element 18).

With regard to claims 6 through 11, it would have been obvious to one having ordinary skill in the art at the time of invention to modify the device disclosed by Blevins '965 such that it would include the railing and L-shaped arms shown by Pratt '855. The motivation would have

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been to provide the patient lifting device with retractable means for limiting the movement of a patient on the support.

*Conclusion*

**7. THIS ACTION IS MADE FINAL DUE TO APPLICANT'S FAILURE TO DISCLOSE INFORMATION MATERIAL TO PATENTABILITY.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 571-272-6992. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

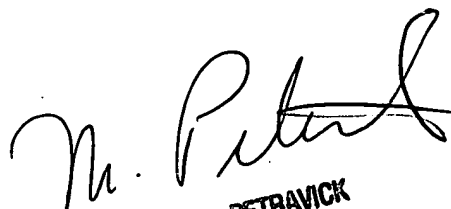
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
tlm

17 September 2006

  
MEREDITH C. PETRAVICK  
PRIMARY EXAMINER